

Sentence Review Division  
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SENTENCE REVIEW DIVISION  
OF THE SUPREME COURT  
STATE OF MONTANA

AUG 14 2020

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,	)	Cause No. DC-19-081
	)	
Plaintiff,	)	Cascade County District Court
	)	
-vs-	)	Montana Eighth Judicial District
	)	
DAVID ALLAN NELSON,	)	<b>DECISION</b>
	)	
<u>Defendant.</u>	)	

On February 5, 2020, the Defendant was sentenced to twenty (20) years to the Montana State Prison, with ten (10) years suspended, for the offense of Count II: Criminal Possession of Dangerous Drugs with Intent to Distribute, a Felony, in violation of §45-9-102, MCA. The Defendant was given credit for 141 days for time already served. The Court ordered the sentence to run consecutive to any other sentence he is currently serving. It was further ordered that the Defendant pay restitution of \$1,007.57 to J.T. and \$1,076.98.

On August 6, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by video from the Great Falls Regional Prison and was represented by David Maldonado, Defense Counsel, who appeared by video from Missoula, Montana. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall

not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous finding of the Division that the sentence imposed in the District Court is clearly excessive.

#### ORDER

Therefore, the Judgment is AMENDED as follows:

On Count II: Criminal Possession of Dangerous Drugs with Intent to Distribute, a Felony, in violation of §45-9-102, MCA, the Defendant is committed to the Department of Corrections for a term of five (5) years, with none of that time suspended. The sentence on Count II shall run consecutively to any other sentence the Defendant is currently serving.

In all other aspects, the Judgment of the District Court dated February 5, 2020, is affirmed.

Done in open Court this 6<sup>th</sup> day of August, 2020.

DATED this 14<sup>th</sup> day of August, 2020.

#### SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Dan Wilson, Chairperson

  
\_\_\_\_\_  
Hon. Luke Berger, Member

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

Copies mailed or emailed this 14<sup>th</sup> day of August, 2020, to:

Clerk of District Court  
David Allan Nelson #32514, Defendant  
Hon. Gregory Pinski  
David Maldonado, Defense Counsel  
Susan L. Weber, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
\_\_\_\_\_  
Shelly Smith, Office Administrator  
Sentence Review Division